

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ERIC MCGUIRE,)	
)	
Plaintiff,)	Civil Action No. 13-1330
)	
v.)	Judge Cathy Bissoon
)	
THE BOROUGH OF)	Magistrate Judge Cynthia Reed Eddy
WILKINSBURG, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM ORDER

This case was referred to United States Magistrate Judge Cynthia Reed Eddy for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Local Rule of Civil Procedure 72.

On March 13, 2015, the Magistrate Judge issued a Report and Recommendation (Doc. 37) recommending that Defendants' Partial Motion to Dismiss (Doc. 26) be granted in part and denied in part, and that Plaintiff be given leave to amend his complaint. Service of the Report and Recommendation was made on the parties, and no objections have been filed. After a review of the pleadings and documents in the case, together with the Report and Recommendation, the following Order is entered:

Defendants' Partial Motion to Dismiss (**Doc. 26**) is **GRANTED IN PART AND DENIED IN PART**. Specifically, as to the § 1983 claims against Officer Wilson, Defendants' motion to dismiss the false arrest claim is **DENIED**, and the motion to dismiss the excessive force claim is **GRANTED**, with leave to amend. In addition, Defendants' motion to dismiss the § 1983 claims against Wilkinsburg is **DENIED**; Defendants' motion to dismiss the conspiracy claims against Wilkinsburg and Officers Hamlin and Wilson is **GRANTED**, with leave to

amend; and Defendants' motion to dismiss the claims for punitive damages against Wilkinsburg and Officers Hamlin and Wilson in their official capacities is **GRANTED**. The Report and Recommendation of Magistrate Judge Eddy, dated March 13, 2015, is adopted as the opinion of the District Court.

Plaintiff may file an amended complaint, if appropriate, by April 28, 2015. Failure to file an amended complaint by this date will result in the following claims being dismissed with prejudice: Plaintiff's excessive force claim against Officer Wilson and the conspiracy claims against Wilkinsburg and Officers Hamlin and Wilson.

IT IS SO ORDERED.

April 7, 2015

s/Cathy Bissoon
Cathy Bissoon
United States District Judge

cc (via ECF email notification):

All Counsel of Record